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Informal assistance is also provided to persons whose duties under the Act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.”

### ***Injunction Of Proposition 208 Remains In Place At Least Through The Year 2000***

Following a three-week trial in October and November 1997, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California ProLife Council PAC et al. vs. Scully et al.*, 989 F.Supp. 1282 (E.D.Cal. 1998).) The injunction was issued on January 6, 1998. The Fair Political Practices Commission appealed the District Court’s ruling to the Ninth Circuit Court of Appeals, which in January 1999, ordered the District Court to hold a second trial.

Shortly before trial began, the Legislature placed an initiative (Proposition 34) on the November 2000 ballot. Proposition 34 repealed most of the provisions of Proposition 208,

including all but two of the requirements at issue in the federal court challenge that led up to the 1998 injunction of Proposition 208. Recognizing this effect of Proposition 34, the federal court signed an order lifting the injunction of Proposition 208 effective January 1, 2001, the date on which Proposition 34 came into effect. As of the new year, twelve provisions of Proposition 208 became effective (principally, advertising disclosure requirements not challenged in the federal lawsuit and not repealed by Proposition 34). Two provisions of Proposition 208 which were not repealed by the new measure, but which were challenged in court (involving slate mail disclosure issues) remained under preliminary injunction. The trial court issued its final judgment on those two provisions on March 1, 2001, adjudicating the complaint of the slate mail plaintiffs and permanently enjoining Sections 84305.5 and 84503. On March 12, 2001, the Commission filed with the trial court a motion requesting that the court alter and amend its judgment to provide that the court’s judgment did not apply to Section 84305.5 as it existed prior to Proposition 208, and to further provide that Section 84503 is unconstitutional only as applied to slate mailers.

On May 8, 2001, Judge Karlton issued an order specifying that the court had only ruled on the constitutionality of § 84305.5 insofar as it was amended by Proposition 208, and had only ruled § 84503 unconstitutional as applied to slate mailers.

# Advice Summaries

June 2001

## Campaign

Alice Reed  
City of Moreno Valley  
Dated June 25, 2001  
Our File Number: I-01-148

The City of Moreno Valley is holding an election on July 31, 2001, for the purpose of establishing a library parcel fee (Measure A). The semi-annual campaign statement may be combined with the second pre-election statement because there are overlapping reporting periods.

## Conflicts of Interest

Charlotte Craven  
City of Camarillo  
Dated June 1, 2001  
Our File Number: I-00-224

Determining the distance between a public official's property and the property that is the subject of a redevelopment decision depends heavily on the type of decision before the official.

Sharon A. Stone  
City of Chico  
Dated June 6, 2001  
Our File Number: I-01-014

The investments and income of a spouse are attributed to a public official for purposes of conflict-of-interest analysis; depending on the type of economic interest, community property law may be applied.

Tom Wood  
City of Costa Mesa  
Dated June 12, 2001  
Our File Number: A-01-058

A general discussion of conflict of interest caused by official's interest in his residence and the common area in his planned unit development. Common area is treated as a separate property interest if his pro rata share in the property is worth \$2,000 or more. However, the treatment of common property in planned unit developments and condominium complexes may be the subject of regulatory action in the future.

Ronald R. Ball  
City of Carlsbad  
Dated June 1, 2001  
Our File Number: A-01-071

A member of a city council, otherwise prohibited from participating in decisions regarding a local power plant, may nevertheless participate in a decision to hire a consultant to the city who will advise the city about potential pollution issues.

Michael S. Botello  
City of Torrance  
Dated June 14, 2001  
Our File Number: I-01-081

An official may not participate in a decision if it is reasonably foreseeable that his economic interest will experience a material financial effect as a result of the decision.

John L. Cook  
City of Indian Wells  
Dated June 6, 2001  
Our File Number: A-01-111

A city council member has a client in his private law practice who bids on all public works projects. Even where his client is not the lowest bidder, the city council member is disqualified from participating in the decision to award the public works contract to the lowest bidder. The decision to award a public works contract to the lowest bidder is not a ministerial function, and it will have a reasonably foreseeable material financial effect on the council member's economic interests.

# Advice Summaries

June 2001

**William A. Nack, Commissioner**  
**SF Bay Conservation &**  
**Development Commission**  
**Dated June 21, 2001**  
**Our File Number: A-01-121**

A member of the San Francisco Bay Conservation and Development Commission may not participate in decisions regarding runway and airport reconfiguration at the San Francisco International Airport while also serving as business manager for the San Mateo Building and Construction Trades Council. There is a nexus between the council as a source of income and participation in the airport-related construction decisions.

**Steven L. Dorsey**  
**City of Pasadena**  
**Dated June 15, 2001**  
**Our File Number: A-01-125**

A city manager may participate in decisions regarding a proposed development even though her spouse works for a firm that provides public outreach services to the development company. The letter includes discussion of personal financial interest, a business entity as a source of income via community property law, and application of the “nexus” test.

**Celia A. Brewer**  
**City of Solana Beach**  
**Dated June 15, 2001**  
**Our File Number: A-01-126**

A public official may participate in a decision if it is not reasonably foreseeable that the official will experience a personal financial effect as a result of the decision.

**Marguerite S. Strand**  
**Valley Center Municipal Water**  
**District**  
**Dated June 14, 2001**  
**Our File Number: A-01-129**

A water district board member, with his siblings and parents, is in a limited partnership that owns real property that will be affected by a decision of the board. The board member may not appear before the board as a member of the general public representing his personal interests because neither he nor his “immediate family,” as defined in the Act, owns the limited partnership that is affected by the governmental decision. His siblings and other members of his family are not in any way restricted under the Act from appearing as members of the general public before the board to represent their interests and the partnership’s interests.

**Guy D. Petzold**  
**City of Stockton**  
**Dated June 14, 2001**  
**Our File Number: A-01-130**

A city code enforcement officer has no conflict of interest in a code enforcement action in which she is not a participant. Conflict-of-interest provisions apply to individuals and are not imputed to co-workers.

**Philip H. Robb**  
**Dated June 19, 2001**  
**Our File Number: A-01-135**

A member of a water agency governing board, who has made past expense claims but has none pending, may request that the expense claim reimbursement policy be put on the agency agenda. He may also discuss his own difficulties with the expense claim reimbursement policy at a meeting of the governing board. Both of these actions are permissible under the Act because they pertain to the board member’s “compensation or terms or conditions of employment.”

# Advice Summaries

June 2001

## Gifts

**Marlene L. Garcia**  
**Senate Office of Research**  
**Dated June 11, 2001**  
**Our File Number: A-01-083**

To the extent a designated employee's participation in an annual program sponsored by a bona-fide nonprofit organization includes more than merely making a speech, writing an article, attending a meeting or a public or private conference, and to the extent such services provide greater or equal consideration, any payment received is neither a gift nor honorarium, but is considered income which may have to be disclosed on the employee's statement of economic interests.

## Lobbying

**Bonnie L. Chafe**  
**The State Affairs Company**  
**Dated June 26, 2001**  
**Our File Number: A-01-153**

A lobbyist is unable to complete the ethics training as required for lobbyist certification due to personal and professional reasons, and seeks a temporary waiver of the requirement. The Commission may not grant a waiver of ethics training requirement for lobbyist certification because there is no statutory authority for such a waiver.

## Prop. 34

**Mark Ginsberg, Treasurer**  
**CASE PAC**  
**Dated June 11, 2001**  
**Our File Number: A-01-070**

This letter discusses whether a small contributor committee may accept contributions it receives that exceed the annual limit of \$200 per person set forth in Section 85203, and analyzes specific purposes for which the excess contributions may be used.

## SEI

**Kevin S. Moen, Ph.D.**  
**FPPC**  
**Dated June 26, 2001**  
**Our File Number: A-01-078**

An individual with full disclosure requirements for purposes of filing Statement of Economic Interests, Form 700, is not required to report assets of a domestic partner, as he or she has no community property interest in the domestic partner's sources of income, investments and real property.

**Robert Traverso**  
**California Gambling Control**  
**Commission**  
**Dated June 19, 2001**  
**Our File Number: I-01-124**

Members of an advisory committee will be required to file statements of economic interests if they are not merely advisory as defined by the Act, but, instead, are involved in making or participating in making governmental decisions. General discussion of disclosure on the statement of economic interest filing as well as an overview of conflict-of-interest issues.